

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

D.T.E. NO. 01-34

REQUEST: Verizon Massachusetts' Information Requests to WorldCom, Inc.

DATE: February 14, 2002

VZ-WCOM 2-4: Referring to page 11 of the Direct Testimony of Karen K. Furbish, please provide all relevant Texas PUC decisions and/or rulings in support of your statement that "measurements of interstate special access when used in lieu of UNEs [were added] to SBC's local performance plan." Also please identify the specific measurements required, and indicate whether the Texas PUC decision is final or subject to any pending petitions on reconsideration or appeal.

Respondent: Karen K. Furbish

RESPONSE: The Texas PUC, in Project No. 20400 - Section 271 Compliance Monitoring of Southwestern Bell Telephone Company, Order No. 33 adopted May 24, 2001 (Attachment A hereto), updated Southwestern Bell's post-271 market entry-related performance plan after the completion of its 6-month review process. WorldCom is attempting to obtain an actual copy of the signed Order and will update this response when one is obtained.

The UNE measures as finalized by the Texas PUC (attachment B hereto) confirm that the Texas PUC ordered Southwestern Bell to measure interstate and intrastate special access circuits in the following circumstances: "to the extent a CLEC orders special access in lieu of UNEs, SWBT's performance shall be measured as another level of disaggregation in all UNE measures." Attachment B at 88 (far right column).

The issue of implementation is currently subject to arbitration proceedings before the Texas PUC.

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VZ-WCOM 2-5: Referring to page 11 of the Direct Testimony of Karen K. Furbish, please provide all relevant Colorado regulatory commission decisions and/or rulings in support of your statement that measurements of interstate special access when used in lieu of UNEs would be added to Qwest's local performance plan. Also please identify the specific measurements required, and indicate whether the Colorado Commission's decision is final or subject to any pending petitions on reconsideration or appeal.

Respondent: Karen K. Furbish

RESPONSE:

The Colorado Public Utility Commission's Decision in Docket No. 01I-041T, *In The Matter Of The Investigation Into Alternative Approaches For A Qwest Corporation Performance Assurance Plan In Colorado, Decision On Motions For Modification and Clarification of the Colorado Performance Assurance Plan*, dated November 5, 2001 (Attachment A hereto) affirms the "requirement [for Qwest] to monitor and report special access information" as part of its Performance Assurance Plan in Colorado. (*See* Attachment A "Request 9" beginning on page 31.) Intra- and inter-state special access will be measured and reported as another level of disaggregation of Qwest's §271-related local performance plan, as specified in the decision.

WorldCom believes the Decision on Motions for Modification is final and not subject to any pending petitions or appeals. Currently, implementation efforts are underway to determine how CLECs and Qwest will identify applicable orders to facilitate effective monitoring, and which specific metrics Qwest will use to measure and report on its special access performance to competitor carrier customers.

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VZ-WCOM 2-6: Referring to page 12 of the Direct Testimony of Karen K. Furbish, please provide all relevant decisions and/or rulings in support of your statement that "other states have determined that it is appropriate to monitor ILEC Special Access performance, including Minnesota and Washington." Also, for each state, please identify the specific measurements required, and indicate whether the regulatory decision is final or subject to any pending petitions on reconsideration or appeal.

Respondent: Karen K. Furbish

RESPONSE: **Minnesota** – *See* In the Matter of the Complaint of AT&T Communications of the Midwest, Inc., Against US WEST Communications, Inc. Regarding Access Service, Docket No. P-421/C-99-1183, Order finding Jurisdiction, Rejecting Claims for Relief, and Opening Investigation, issued August 15, 2000 (<http://www.puc.state.mn.us/docs/orders/00-105.pdf>).

Acting on complaint filed by AT&T against U S WEST (now Qwest) about the incumbent LEC's poor performance in providing Special Access service to AT&T on a wholesale basis, the Minnesota Public Utilities Commission (MN PUC) determined that it could exercise jurisdiction over performance issues relating to Qwest's federally-tariffed Special Access services (Attachment A hereto). That jurisdictional ruling was recently confirmed by the MN PUC in an order adopting WorldCom's June 26, 2001 metrics, under which Qwest is to report on its performance in provisioning Special Access to its wholesale competitor-customers (Attachment B hereto; see <http://www.puc.state.mn.us/docs/orders/02-0030.pdf>).

The second order (Attachment B) was issued on March 4, 2002. Qwest has 20 days to appeal from the date of the order.

Washington – See Docket No. UT-991292, In Re the Complaint of

AT&T Communications of the Northwest, Inc., v. U S WEST Communications, Inc, Regarding the Provision of Access Services, Tenth Supplemental Order, May 18, 2000 (Attachment C hereto; see [http://www.wutc.wa.gov/webdocs.nsf/be4e5cc09d8c87408825650200778c6b/70b42f0e22f9d5fb882568e30082c64e/\\$FILE/385a2c12ladbkakqk_.pdf](http://www.wutc.wa.gov/webdocs.nsf/be4e5cc09d8c87408825650200778c6b/70b42f0e22f9d5fb882568e30082c64e/$FILE/385a2c12ladbkakqk_.pdf)).

In that Order, Washington Utilities and Transportation Commission (WUTC) said in paragraph 51:

The Commission's decision to exercise jurisdiction under state law in this case demonstrates that it is prepared to oversee intercarrier relations and service quality issues that affect the provision of intrastate access services. Further, the Commission's recent record, considered in its entirety, should send a clear signal to the regulatory community that it will continue to exercise oversight and use whatever means are reasonably necessary in order to fulfill its statutory duty in the public interest.

Measurement and reporting of Qwest's Special Access performance is currently under review as part of the Commission's deliberations on a Sec. 271-related Performance Assurance Plan for Qwest. (In the Matter of the Investigation Into U S WEST COMMUNICATIONS, INC.'s Compliance with Section 271 of the Telecommunications Act of 1996, Docket No. UT-003022; In the Matter of U S WEST COMMUNICATIONS, INC.'s Statement of Generally Available Terms Pursuant to Section 252(f) of the Telecommunications Act of 1996, Docket No. UT-003040).

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VZ-WCOM 2-7: Referring to page 12 of the Direct Testimony of Karen K. Furbish, please explain fully the basis for your statement that "several other states are actively considering requiring BOCs to report on Special Access performance, including Indiana, Illinois, Tennessee, Georgia, and Maine." Please provide any and all documents upon which you relied in support of that statement.

Respondent: Karen K. Furbish

RESPONSE: **Indiana** – *See* Cause No. 41657, Initial Order, Attachment A, September 11, 2001 (Attachment A hereto). At page A-33, the Indiana Utility Regulatory Commission states as follows: "The Commission is leaning toward requiring SBC/Ameritech to develop performance measurements and business rules (and, perhaps, penalties and remedies) for special access to include in the Indiana Remedy Plan." This issue is still under active consideration in that proceeding.

Illinois – *See* Docket No. 01-0539 before the Illinois Commerce Commission (ICC). In a proceeding established to implement a new state law requiring the Illinois Commerce Commission to adopt "carrier-to-carrier wholesale service quality rules," parties and staff are currently considering in Workshops the inclusion of special access performance measurements and standards in proposed rules. The original notice announcing the first in a series of Workshops is attached hereto (Attachment B). The ICC Staff has incorporated a working definition of Special Access in its rough draft (dated February 20, 2002) of proposed carrier to carrier wholesale service quality rules and the services to which they may apply (Attachment C at 6, 9). Staff will ultimately submit to the Commissioners a final set of draft rules based, as much as possible, on consensus reached by the parties during a series of workshops, and parties will submit testimony on unresolved issues. Since no agreement is likely to be reached with SBC-Ameritech and Verizon on the application of Special Access measurements, the issue will go to hearing in June, 2002.

Tennessee – Docket No. 01-00193. *See* letter dated February 6, 2002 (Attachment D hereto) from Time Warner Telecom (“TWT”) filing the Joint Competitive Industry Group Special Access metrics (superseding previous special metrics filed separately by TWT and WorldCom). A decision is pending in this proceeding.

Georgia – Docket 7892-U – One of the enclosures to the letter submitted in Tennessee (Attachment D, above) is WorldCom, Inc.’s “Notice of Filing of Special Access Metrics” that was submitted to the Georgia Public Service Commission earlier this year. That submission was in response to the December 10-12, 2001 Workshops in the Georgia proceeding, in which the Georgia Commission Staff stated its intention to recommend implementation of special access performance measurements on a diagnostic basis.

Maine – Docket No. 2000-849. The Maine commission has recently decided not to adopt a staff recommendation to include special access in Verizon’s 271-related Performance Assurance Plan. However, it is not known whether the Commission will decide to establish a separate proceeding to consider Verizon’s special access performance in Maine.

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VZ-WCOM 2-8: Referring to page 13 of the Direct Testimony of Karen K. Furbish, please indicate when WorldCom began reporting its special services performance results on a wholesale and retail basis in New York in compliance with the New York PSC's December 20, 2001, order applying the Special Services Guidelines to all carriers. If WorldCom has not yet filed such performance reports, please indicate when it intends to do so.

Respondent: Karen K. Furbish

RESPONSE: WorldCom, like other CLECs operating in New York, is required to report its special access performance on April 15, 2002, if it has 50,000 or more circuits in service. The issue of the application of New York's Special Services Guidelines to CLECs is currently under reconsideration based upon a petition filed by WorldCom.

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VZ-WCOM 2-9: Referring to page 13 of the Direct Testimony of Karen K. Furbish, please explain fully the basis for your statement that there is "evidence of [Verizon's] favorable treatment of its retail customers over its wholesale competitor carrier customers," as it relates to specifically to Massachusetts. Also please provide all documents and identify all specific facts upon which you relied in support of your statement for Massachusetts.

Respondent: Karen K. Furbish

RESPONSE: The evidence of Verizon's favorable treatment of its retail customers over its wholesale competitor carrier customers is in Verizon's own data reported to the Department in this proceeding. The analysis conducted by AT&T's witness, Eileen Halloran, which WorldCom has reviewed and with which WorldCom concurs, shows for at least the following measures – percent on time, average interval offered, average interval completed, and installation quality – Verizon's performance on DS1s is substandard and worse than what it provides for its retail end users.

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VZ-WCOM 2-10: On page 14 of the Direct Testimony of Karen K. Furbish, it states that the Department "can request the FCC to fully investigate Verizon's performance, or delegate to the Department full authority to devise appropriate enforcement mechanisms." Please indicate whether the FCC has granted such authority to any state commission, including but not limited to New York, regarding interstate special access services.

Respondent: Karen K. Furbish

RESPONSE: To date, the FCC has not granted authority to any state regarding ILEC performance on interstate special access services; it has, however, specifically requested comments in its Special Access Notice of Proposed Rulemaking (CC Docket No. 01-321) on the role states should play. The Notice (at ¶ 11) states:

We seek comment on how, if the Commission were to adopt special access measures and standards, the state commissions might participate in enforcing these mechanisms. Parties are asked to comment on what they consider an appropriate role for the states, taking into account both policy considerations and legal constraints, and including applicable limitations on delegations of authority to the states.

Therefore, the FCC has not ruled out a role for state commission oversight and enforcement of incumbent LEC interstate special access performance, and may not have responded to the New York PSC's request because of the pendency of its Notice.